PLYMOUTH INSTITUTE FOR FREE ENTERPRISE

# ADD FLEXIBILITY TO OVERTIME PAY MANDATES

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ADVANCING AMERICAN FREEDOM

**TOPLINE:** Overtime pay mandates can do more to limit flexibility and restrict output than they do to increase wages. Lawmakers should provide greater flexibility in overtime pay mandates to expand incomes and output.

**BACKGROUND:** Federal law requires employers to pay certain employees "overtime" pay equal to 1.5 times their hourly rate when they work over 40 hours in a single week. While the statute specifies that overtime rules apply to workers based on the duties they perform, Department of Labor regulations added a minimum salary threshold, below which the overtime rules are triggered. This results in the rules applying to workers Congress meant to exclude.

For example, a restaurant manager in a state with low wages and a low cost of living who would pass the duties test may not pass the salary test, so her employer may pay her hourly instead of a steady salary. Then, if she wants to switch half of a shift with a fellow manager so that she can take her child or aging parent to the doctor, her employer may prevent her from doing that because it would result in her working 36 hours one week and 44 the next—costing her employer four hours of overtime for the same amount of work. Studies have shown that rigid overtime rules and above-market salary thresholds can reduce hours and employment, lead to irregular schedules and paychecks (if workers get shifted from salaried to hourly pay), and cause workers to lose benefits and flexible or remote-work options.

### Action Items (Primarily Congress):

- Congress should **allow for biweekly or monthly overtime calculation periods**.
- Congress should **clarify the original statutory intent of overtime laws, based on duties and without regard to pay**.
- If a salary threshold remains, lawmakers should **allow levels to vary based on significant differences in market wages** and costs of living across the country.
- Congress should **allow private sector workers the same option as public sector workers—to choose "comp time"** instead of cash pay for overtime.

### How It Would Make Life More Affordable:

- Fewer artificial restrictions on hours and pay would reduce consumer prices.
- Hours, incomes, and total compensation would rise, enabling workers to afford more.
- Improved flexibility and remote-work options would increase work and incomes.

**Related Legislation:** Working Families Flexibility Act of 2025 (S. 1158, H.R. 2870).

**BOTTOMLINE**: Fewer overtime restrictions would reduce prices and increase incomes.